the words 'a person who is interested' do not mean that the person who makes the payment must prove that he had such an interest as would stand the test of a judicial trial. The decisions point to the conclusion that all that is necessary for a person making a payment to recover is that he should really believe and honestly believe that he must make the payment in his own interest."

Among the numerous cases reference may be made to *Smith* v. *Dinonath Mookerjee*, I.L.R. 12 Calc. 213—see page 216; *Kedar Nath Mistri* v. *Narayan Chandra Safui*, A.I.R. 1930 Calc. page 344—see page 345 and generally *Pollock & Mulla* —Indian Contract and Specific Relief Acts.—6th Edn. pages 382 to 400.

During the course of the hearing Mr. Hastings for the Defendant admitted judgment must go against him as far as the claim for repayment of half the quit-rent was concerned, in view of section 46 of the Land Code which says:—

> "When land is held by co-proprietors they shall be jointly and severally liable to pay the rent reserved."

There is a similar clause in the Sanitary Boards Enactment which covers the General Assessment, Water and Education Fees, viz. section 45. This provides that:—

> "Subject to the provisions of the Land Code, 1926, the rate shall be a first charge on the holding in respect of which it is assessed and if not paid within the prescribed time shall be recoverable in the manner hereinafter provided."

I hold, therefore, that the present case can fall under either section 69 or section 70 and that Plaintiffs are entitled to recover the amount claimed subject to a correction of an error in the amount of the cents, which is not 57½. The correct amount is the half of $2,319.05, i.e. $1,159.51 and costs.

Judgment accordingly.

[APPELLATE CIVIL JURISDICTION]
THOMAS, C.J., BURTON & HOWES, JJ.
March 1, 1934.

FOO NYIT TSE.....Plaintiff—Appellant.

and

YEW CHEE SEONG Defendant—Respondent.

and

FOO YIN FONG.....Applicant.

[PERAK CIVIL APPEAL No. 13 of 1933]

Death of Appellant—Order of Revivor.

The Plaintiff gave notice of appeal from the Judgment of Mudie,J.

Before the memorandum of appeal was filed he died. The Will named the Applicant and Foo Yin Chiew as Executors. There was insufficient time to prove the Will and extract probate before the date for filing the memorandum of appeal. The Applicant applied for an order that the proceedings in the Appeal might be carried on and prosecuted by the Applicant and Foo Yin Chiew as personal representatives of the deceased in like manner as such proceedings might have been carried on and prosecuted by the deceased plaintiff-appellant if he had not died, and for an order substituting the names of the Executors in place of that of the deceased plaintiff-appellant and amending the proceedings accordingly.

Application was made for extending the time for filing the memorandum of appeal accordingly.

Held, that the Court was empowered to make an order of Revivor in terms of the application.

H. D. Mundell and *S. Seenivasagam* for Appellant.

T. E. Conaghan and *Dunford Wood* for Respondent.

THOMAS, C.J. gave oral judgment accordingly, **BURTON** and **HOWES, JJ.** concurring.